



Mr. Chairman and Members of the Committee,

The map displays the following projects and their statuses:

- Operating (Black Outline):**
 - Columbia Solar Energy
 - Concha Solar Energy
 - Arlington Valley Solar I
 - Sandy Creek
 - Linestone to Gibbons Creek
 - Carville
 - Hog Bayou
 - Santa Rosa
 - De Rosa
 - Cherokee
 - Columbia
 - Decatur
 - Plum Point
 - Orata
 - Blackhawk
 - Marathon
 - Seneca
 - Watkinsford & Expansion
 - West Deptford
 - Dover SUN Park
 - Dorset & Expansion
 - Riverside
 - University Park North & South
 - Aurora
 - Kansas
 - Rockford
 - Windsor
 - Cedage Drive
 - Jericho Wind
- Under Development (Blue Outline):**
 - Southwest Intertie Project (SWIP)
 - One Nevada Transmission Line (ON Line)
 - Arlington Valley Solar II
 - Cross Texas Transmission
 - Linestone to Gibbons Creek
 - Duff to Coleman
 - Blue Ridge
 - Watkinsford & Expansion
 - West Deptford
 - Dover SUN Park
 - Dorset & Expansion
 - Riverside
 - University Park North & South
 - Aurora
 - Kansas
 - Rockford
 - Windsor
 - Cedage Drive
 - Jericho Wind
- Developed (Red Outline):**
 - Columbia Solar Energy
 - Concha Solar Energy
 - Arlington Valley Solar I
 - Sandy Creek
 - Linestone to Gibbons Creek
 - Carville
 - Hog Bayou
 - Santa Rosa
 - De Rosa
 - Cherokee
 - Columbia
 - Decatur
 - Plum Point
 - Orata
 - Blackhawk
 - Marathon
 - Seneca
 - Watkinsford & Expansion
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LS Power strongly supports House Bill 4482 and House Bill 4483. Today, the Michigan Public Service Commission has the authority to issue a Certificate of Public Convenience and Necessity (CPCN), which provides authority to construct a high-voltage transmission line in Michigan. The underlying statute as passed in 2004 allows an affiliated transmission company, electric utility, or independent transmission company to be issued a certificate of public convenience and necessity. The Michigan Public Service Commission has full state authority to deny or approve a certificate of public convenience and necessity for siting a transmission line. Today, an independent transmission company

or affiliated transmission company has the power to condemn property that is necessary to transmit electric energy for public use, subject to both the electric transmission line certification act and the uniform condemnation procedures act.

Under current law, an affiliated transmission company is “a person, partnership, corporation, association, or other legal entity or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization, as determined by the federal energy regulatory commission, is engaged in this state in the transmission of electricity using facilities its owns, that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.”

Under current law, an independent transmission company is “a person, partnership, corporation, association, or other legal entity, or its successor or assigns, engaged in this state in the transmission of electricity using facilities its owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an electric utility or an affiliate of the utility generating or distributing to retail customers in this state.”

The current need for House Bill No. 4482 and House Bill No. 4483 arises from some changes in national energy policy at the Federal Energy Regulatory Commission that have occurred since the Michigan statute was written nearly 15 years ago. These national changes were issued in a FERC decision called “FERC Order No. 1000”. FERC Order No. 1000 was issued in 2011 and it was upheld 3-0 by a bipartisan panel before the United States Court of Appeals for the District of Columbia Circuit in August 2014.

FERC Order No. 1000, among many things, allows competitive pressures to enter the world of FERC-jurisdictional electric transmission. Prior to FERC Order No. 1000, the federal tariff of utilities and agreements routinely provided incumbent utilities with a federal right of first refusal for any new transmission facilities in their particular service areas, even if the proposal for new construction came from a third party. In FERC Order No. 1000, FERC ordered that these so-called “rights of first refusal” in federal tariffs across the country be removed. FERC, supported by the Federal Trade Commission, concluded that these anti-competitive provisions were not in the consumers’ best interest. FERC feared that this lack of incentive for non-incumbents to propose needed infrastructure would ultimately give rise to unlawful rates for customers. By deterring proposals from non-incumbents, rights of first refusal would impede the identification of some cost-effective projects, resulting in the development of transmission facilities “as a higher cost than necessary”. Those higher costs would then be passed on to customers, yielding rates that were “not just and reasonable”, in violation of the Federal Power Act. FERC’s concerns were particularly acute in light of its expectation that a significant

amount of transmission facility development would take place nationally during the next few decades. To address this problem created by rights of first refusal in federal tariffs, FERC required their elimination. LS Power was not alone in our support of FERC's decision supporting competition. The Federal Trade Commission submitted comments supporting the Commission's proposal. The Pennsylvania Public Utilities Commission, New Jersey Board of Public Utilities, Public Utilities Commission of Ohio, Ohio Consumers' Counsel, West Virginia Consumer Advocate Counsel, California Public Utilities Commission, Massachusetts Department of Public Utilities, Connecticut Department of Public Utility Control and other key state commissions weighed in supporting FERC on the basis of consumer benefits. In addition, large industrial consumers including the American Forest and Paper Association, Electricity Consumers Resource Council, American Chemistry Council, Association of Businesses Advocating Tariff Equity, Carolina Utility Customers Association, Coalition of Midwest Transmission Customers, Florida Industrial Power Users Group, Georgia Industrial Group-Electric, Industrial Energy Users-Ohio, Oklahoma Industrial Energy Consumers, PJM Industrial Customer Coalition, West Virginia Energy Users Group and Wisconsin Industrial Energy Group also weighed in supporting FERC in their policy on the grounds of being in the best interest of ratepayers. The DC Circuit and 7th Circuit have also upheld the notion of competition in transmission, specifically in PJM and MISO, which Michigan is in both regions.

As a result of FERC Order No. 1000, when regional transmission projects are planned and paid for by two or more utilities, there is generally a competitive process for regional transmission projects. Once the most efficient or cost-effective project in the FERC-jurisdictional regional transmission planning process to obtain a construction permit, the winning developer moves to the state siting process.

LS Power supports House Bill No. 4482 and House Bill No. 4483, as it would allow regional transmission projects that are deemed the most effective or cost-effective in the FERC-jurisdictional regional transmission planning process to obtain a construction permit. However it should be noted that this would only occur if and only if the Michigan Public Service Commission also finds it in the best interest of the State of Michigan.

House Bill No. 4482 and House Bill No. 4483, updating current law with the new market realities, modifies the definition of "independent transmission company" and allows new competitive entrants proposing to engage in the transmission of electricity in the state to apply and be granted a certificate of public convenience and necessity, if and only if the Michigan Public Service Commission agrees. Similar to most states, the bills allow for condemnation powers to an entity that holds the certificate issued by the Michigan Public Service Commission if that entity is not an affiliate of an electric utility generating or distributing electricity to retail customers in this state. The Michigan Public Service Commission retains complete power to grant or deny the permit to any party, and full Michigan state control is maintained over the siting of transmission. We appreciate the opportunity to provide these comments.